

# **Exhibit 4**

## **to Declaration of Robert W. Fuller**

1 Michael W. Ford  
2 Senior University Counsel  
3 University of Florida  
4 123 Tigert Hall  
5 Gainesville, FL 32611  
6 Telephone: (352) 292-1358  
7 Facsimile: (352) 392-4387  
8 mwford@ufl.edu

9 *Attorney for the University of Florida*

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

IN RE COLLEGE ATHLETE NIL  
LITIGATION

Case No. 4:20-cv-03919-CW

**DECLARATION OF KIM GREEN IN  
SUPPORT OF JOINT ADMINISTRATIVE  
OMNIBUS MOTION TO SEAL**

I, Kim Green, declare that the following is true:

1. I am the Associate Athletics Director for the University of Florida's intercollegiate athletic program and an employee of The University Athletic Association, Inc. ("UAA"), a separate corporate entity that is wholly controlled by the University of Florida.<sup>1</sup> The University of Florida is a member of the Southeastern Conference, which is a defendant in this action. I make this declaration of my own personal knowledge and, if called on to do so, could testify competently to the facts stated herein under oath.

2. I am informed that the parties in this matter are seeking to file under seal certain

---

<sup>1</sup> The documents produced by the University of Florida in response to the subpoena belong to UAA. For convenience and clarity, both UAA and the University of Florida are referred to collectively in this Declaration as the "University of Florida" or the "University."

1 highly confidential and competitively sensitive information belonging to the University as well  
2 as other documents that reference those materials. Specifically, on September 15, 2023, the  
3 parties in this matter filed a Joint Administrative Omnibus Motion to Seal (the "Motion"). The  
4 University was served with a copy of the Motion and was informed of the procedures set forth  
5 in Civil Local Rule 79-5, as modified by the Stipulation and Order Modifying Sealing  
6 Procedures in this case. See ECF No. 205.

8 3. I make this declaration in support of the sealing of certain confidential  
9 information produced by the University pursuant to Local Rule 79-5(c) and (f)(3) of the U.S.  
10 District Court for the Northern District of California.

11 4. On September 23, 2021, Plaintiffs in this action served the University with a  
12 subpoena seeking, in part, data and documents reflecting the identity of student-athletes on  
13 various athletic teams at the University, the financial aid distributions made to student-athletes  
14 at the University, and certain information regarding agreements that student-athletes at the  
15 University have entered with third parties related to the commercial use of their name, image,  
16 or likeness ("NIL") or commercial activity related to their NIL, including the financial terms of  
17 those agreements.

19 5. On , November 1, 2012 the University complied with the subpoena by making  
20 an initial production of documents. The University made supplemental productions on  
21 November 5, 2021, December 22, 2021, July 1, 2022, May 9, 2023 and May 26, 2023. The  
22 University's productions included documents that contained confidential financial aid records  
23 for individual student-athletes and information, including financial terms, regarding NIL  
24 agreements for individual student-athletes. These documents were produced to Plaintiffs with  
25 the understanding that they would be kept confidential pursuant to the Stipulation and  
26 Protective Order entered in this action. The University marked these documents as  
27  
28

1 “Confidential.”

2 6. I understand that a party seeking to file a document under seal must “establish  
3 that a document, or portions thereof, are sealable.” Civil L.R. 79-5(c). In connection with a  
4 dispositive motion, a designating party must demonstrate that “compelling reasons” exist to  
5 protect the information from being disclosed. *Kamakana v. City & Cnty. of Honolulu*, 447  
6 F.3d 1172, 1178-79 (9th Cir. 2006). Redactions, instead of complete removal, can be used to  
7 place “limited and clear” portions of information outside the public record. *Id.* at 1183.

8 7. The University requests that the following portions of the parties’ filings  
9 containing the University’s confidential information be maintained and filed under seal and can  
10 demonstrate that compelling reasons exist to maintain these narrowly tailored redactions under  
11 seal:  
12

	Document and Location	Compelling Reason(s) for Sealing
13 14 15 16 17 18 19	1. ECF No. 209-2, Expert Report of Daniel Rascher, p.112, n. 238;	To protect highly confidential and competitively sensitive information pertaining to the University’s squad lists, which reveal the identity of the University’s student-athletes, as well as information about their enrollment at the University and the financial aid they received at the University for specific academic years.
20 21 22	2. ECF No. 290-2, Reply Report of Daniel Rascher, p.17, ¶ 28 & n.36	To protect highly confidential and competitively sensitive information pertaining to the NIL deals reported by certain of the University’s student-athletes and their financial terms.

23 8. The University maintains the information pertaining to the NIL agreements  
24 summarized above and the terms thereof as confidential. Not all employees of the University  
25 are permitted to access these documents or the agreement terms that they contain. The  
26 University also demands that recipients of those documents agree to treat that information as  
27 confidential.  
28

1           9.       The Northern District of California has concluded that “compelling reasons”  
 2 exist to seal confidential “license agreements, financial terms, [and] details of confidential  
 3 licensing negotiations[.]” *Guzman v. Chipotle Mexican Grill, Inc.*, No. 17-cv-02606-HSG,  
 4 2020 WL 1171112, at \*1 (N.D. Cal. Mar. 11 ,2020) (citation and internal quotation marks  
 5 omitted). For the same reasons, the agreements summarized above should remain sealed.  
 6

7           10.       The documents summarized above also contain and reflect confidential personal  
 8 information belonging to the University’s student-athletes. Under the Family Educational  
 9 Rights and Privacy Act, 20 U.S.C. § 1232g, (“FERPA”) the University is required to keep  
 10 confidential personal information belonging to its students, and, subject to narrow exceptions,  
 11 may not disclose such information to the public. Federal courts have concluded that FERPA  
 12 obligations should be considered when determining whether to seal information in court  
 13 filings. *See Rosenfeld v. Montgomery Cnty. Pub. Sch.*, 25 F. App’x 123, 132 (4th Cir. 2001).  
 14 Courts in this district have sealed information that is subject to FERPA’s privacy protections.  
 15 *See, e.g., Abdulhadi v. Wong*, No. 18-cv-04662, 2022 WL 842588, at \*11 (N.D. Cal. Mar. 4,  
 16 2022).  
 17

18           11.       Moreover, the disclosure of details regarding the financial aid the University  
 19 provides to its student-athletes, as well as the specific manner in which the University provides  
 20 such aid, would harm the University and its students by revealing non-public information  
 21 regarding the University’s financial-aid decisions and distributions to NCAA members, who  
 22 are the University’s competitors. The University reports this financial-aid information to the  
 23 NCAA, but this information is not released or otherwise made available to the public or other  
 24 NCAA members on either a conference- or school- specific basis. I understand that federal  
 25 courts, including the Ninth Circuit, have concluded that information, like this financial-aid  
 26 data, that would harm a litigant’s competitive standing if made publicly available is properly  
 27  
 28

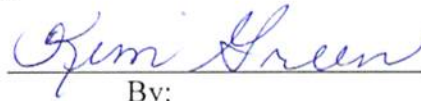
1 subject to sealing. *See, e.g., Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978); *Ctr.*  
2 *for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016).]

3 12. The limited redactions proposed above and in the Motion are narrowly tailored  
4 and seek to seal only confidential information of individual University student-athletes. The  
5 public disclosure of this information would harm the University and its student-athletes.  
6 Disclosing these redacted portions publicly is also unnecessary in this litigation, as these  
7 student-athletes' identities, financial aid information, and particularized NIL agreement terms  
8 are irrelevant to the arguments in support of and against class certification in this case.  
9

10 13. For the foregoing reasons, the University respectfully submits that compelling  
11 reasons exist to seal the information identified above and in the Proposed Order submitted with  
12 the Motion.  
13

14 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true  
15 and correct.

16 Executed on September 26, 2023.

17 

18 By: \_\_\_\_\_

19 Kim Green  
20 Associate Athletics Director  
21  
22  
23  
24  
25  
26  
27  
28